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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eleventh session

SUMMARY RECORD OF THE 34th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday 23 November 1994, at 3 p.m.

Chairman: Mr. ALSTON
later: Mr. ALVAREZ-VITA

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United Kingdom of Great Britain and Northern Ireland (continued)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS (agenda item 4) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

United Kingdom of Great Britain and Northern Ireland (continued) (E/C.12/1990/7/Add.16)

1. The CHAIRMAN invited the United Kingdom delegation to reply to the questions posed in paragraphs 16 to 19 of the list of issues (E/C.12/1994/WP.13).

2. Mr. STEEL (United Kingdom), referring to paragraph 16 concerning the protection of minorities, said that there were no restrictions in the United Kingdom based on race, colour or national or ethnic origin which would have the effect of limiting the right of all people to participate fully in cultural life. The Race Relations Act 1976 prohibited all forms of racial discrimination, including discrimination in cultural activities. The Broadcasting Act 1990 was intended to provide opportunities for communities of all kinds to have access to broadcasting stations, offering programme material designed to meet their needs and interests. The licensing body in the independent radio sector - the Radio Authority - ensured that the new stations which it licensed catered to the tastes and interests of the population. There were now eight radio stations across the United Kingdom broadcasting programmes for ethnic minority communities 24 hours a day. In the commercial sector the Independent Television Commission could also issue licences to channels offering programmes to meet the particular needs of ethnic minorities. Several channels were broadcasting programmes for various communities: Turkish, Greek, Asian and Arabic, among others.

3. With regard to paragraph 17, the implementation of the Race Relations Act 1976 and the Public Order Act 1986 had not presented any difficulties in relation to the implementation of article 15 of the Covenant. The Public Order Act restricted freedom of expression only so far as public order required.

4. Turning to paragraph 18, he said that the public funds allocated by the State to dependent Territories for cultural activities and scientific research varied according to the size of the Territory in question, its resources and the degree of organization of its society. He invited the members of the Committee to refer to the written reply of the United Kingdom Government, which gave all necessary information on the topic.

5. He would welcome some clarification of the meaning of the question contained in paragraph 19 concerning the impact of the austerity measures on government expenditures and allocations for cultural activities and scientific research.

6. The CHAIRMAN said that the Committee had meant to ask whether the recent evolution of budgetary policy had had an adverse effect on expenditures for cultural activities and scientific research.

7. Mr. STEEL said that he would reply to the question at a later stage.

8. The CHAIRMAN invited the United Kingdom delegation to respond to paragraphs 20, 21 and 22 of the list of issues, which dealt with the implementation of articles 10 to 12 of the Covenant.

9. Mr. STEEL (United Kingdom) took up paragraph 20, which stated that according to a 1994 publication entitled Law and Order in Private Rented Housing, while government figures showed that 144,000 households might have experienced harassment or illegal eviction, 80% of such cases had not been reported, and that national housing policy was powerless to address the problem, which concerned in particular single-parent private tenants who had very low incomes or belonged to racial minorities, especially the black minority, and that in most places the Housing Act 1988 had directly resulted in abuses by private landlords.

10. The Government was aware that a minority of landlords abused their position. That was why the Eviction Act 1977 made it a criminal offence to harass a tenant in certain ways. The Act had been strengthened by the Housing Act 1988, which made it a criminal offence to harass a tenant in such a way as to cause him to leave his home, even if the intention to commit such an offence could not be established. The Act also established the right to damages for illegally evicted tenants and empowered local authorities to take legal proceedings against landlords for the offences of harassment or illegal eviction.

11. Turning to paragraph 21, he said that the Local Government and Housing Act 1989 had expanded the definition of houses in multiple occupancy to include flats in multiple occupancy. The Act had also introduced a grant for landlords to be paid by local authorities, with a ceiling of £20,000 set at their request, to improve the accommodation which they offered for rent. The Act also empowered local authorities to charge a fee for registering a property and established new standards of fitness for housing. Generally speaking, the implementation of the new provisions had not given rise to major problems.

12. With regard to paragraph 22 concerning the homeless, it was impossible to apply the Homelessness Code of Guidance uniformly throughout the country owing to the discretion enjoyed by local authorities in carrying out the provisions of the Code.

13. Mr. TEXIER asked whether the problem of the homeless was as acute in the United Kingdom as in France, where the large number of homeless people was due mainly to the marginalization of unemployed persons who were no longer entitled to unemployment benefit. If the United Kingdom had a similar problem, he would like to know what the causes were and how the Government was trying to deal with them.

14. He would also like to know whether the courts intervened when tenants who could no longer pay their rent were evicted and, if so, whether the courts took the provisions of article 11 of the Covenant into account in their decisions. He wondered whether evicted tenants were rehoused, in accordance with the Committee's recommendation No. 4.

15. Mr. SIMMA said that, according to information transmitted by the non-governmental organization Shelter, the number of homeless had trebled in the United Kingdom between 1978 and 1992, when, again according to Shelter, the number of homeless families had totalled 150,000. In addition, one home in 13 did not meet the minimum standards of fitness. According to a study made by Bristol University, nine billion pounds would be needed to bring such accommodation up to standard. He would like to know whether the Government envisaged taking action to improve the situation.

16. Mr. STEEL (United Kingdom) said that he did not have the necessary information to reply to the questions put by Mr. Texier and Mr. Simma, but the United Kingdom delegation would give the Committee an answer as quickly as possible.

17. The CHAIRMAN invited the United Kingdom delegation to take up paragraphs 23 to 38 of the list of issues, which concerned Hong Kong.

18. Mr. FUNG (United Kingdom) said that he welcomed the presence of the many Hong Kong non-governmental organizations (NGOs), with which the Government of Hong Kong wished to maintain a constructive dialogue in order to improve the human rights situation in the Territory. Although Hong Kong's human rights record was one of the best in Asia, the Government was nevertheless aware that some provisions of the Covenant were still not being fully applied.

19. In general terms, the protection of human rights was well established in Hong Kong, thanks in particular to the primacy of the rule of law and the independence of the judiciary. Hong Kong applied the international human rights standards, including those contained in the Convention on the Rights of the Child and in 49 of the conventions of the International Labour Organization (ILO). It was also planning to implement in the near future the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women. A bill prohibiting any form of discrimination on the ground of sex was currently under study and attention would shortly be given to a similar bill concerning the disabled. Measures were also being taken to strengthen the means available to the courts and to make legal aid more easily obtainable by people wishing to lodge complaints of violations of the rights accorded to them by the International Bill of Human Rights.

20. In economic matters the Government believed that its main task was to establish infrastructures and an administrative and legal framework which would encourage economic growth and prosperity. It thought, however, that the intervention of the executive in economic affairs should be kept to a minimum. That policy lay at the root of Hong Kong's economic success and the high living standards of its inhabitants. In 1993 Hong Kong ranked second among Asian countries, after Japan, in per capita income, which stood at US$ 19,400. The unemployment rate was only 2.3%. Disadvantaged people had access to a vast network of social services which offered them financial assistance, medical care and help with housing, among other benefits. The Government was also planning to introduce a broadly based pensions scheme.

21. With regard to access to health care, the situation in Hong Kong was comparable to that in developed countries. Life expectancy was 81 years for women and 75 years for men. Ninety- nine percent of school children were vaccinated against the nine main infectious diseases.

22. Where housing was concerned, some three million people, i.e. more than half the population, lived in various types of housing subsidized by public funds. It was estimated that by 1997 more than half of all families would own their own homes.

23. About a fifth of the population was engaged in full-time study. Education was free for children under 15, generally subsidized for children over 15 and free for those who were unable to pay for their schooling. The quality of the teaching in higher education establishments was very good, and merit was the only criterion of admission. Scholarships were awarded to children from poorer families who had the necessary qualities for higher education. Moreover, additional resources were being allocated to improve the quality of education, especially for pupils with learning disabilities.

24. New environmental protection laws were to be enacted in order to prevent any recurrence of past errors. In order to meet the people's increasing interest in the arts, the Government was going to effect a considerable expansion of cultural activities.

25. Hong Kong was not a welfare State, but the Government had a profound concern for the welfare of the population and saw to it that an appropriate share of the wealth produced was used to ensure that no one lived in need. The Government pursued a balanced human rights policy which it believed to be fully in conformity with the provisions of the international human rights covenants.

26. Mr. GRISSA said that he would like to know why the United Kingdom Government stated in its written reply to the question on self-rule in paragraph 2 of the list of issues that it was inappropriate to talk about self-rule in the case of Hong Kong. It also stated that the Basic Law, which would be the constitutional instrument for the Hong Kong Special Administrative Region, provided for an upward curve in democratic participation for the citizens of Hong Kong. He would like to know who would guarantee that upward curve.

27. The Sino-British Joint Declaration stated expressly: "The provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to Hong Kong, shall remain in force." He wondered whether it should be concluded that China would continue to submit reports to the Committee after the transfer of sovereignty.

28. In its written reply to the question contained in paragraph 24 of the list of issues the United Kingdom Government stated that there was a difference of nature between the rights contained in the International Covenant on Economic, Social and Cultural Rights and those contained in the International Covenant on Civil and Political Rights. He would welcome clarification of the meaning of that statement. He himself thought that the two Covenants were of the same nature, since they were both concerned with the protection of human rights.

29. Ms. TAYA said that she would like to know how the implementation of the provisions of the Covenant would be guaranteed unless China itself acceded to it. Bearing in mind the British legal system, she wondered whether the provisions of the Covenant could be incorporated in domestic law.

30. Mr. SIMMA said that the question of law posed by the implementation of the Covenant in Hong Kong after 1 July 1997, when Hong Kong was to become part of a State which had not acceded to the Covenant, was a very interesting one from the theoretical standpoint and deserved to be studied with the closest attention, for the way in which it was answered would have important consequences. In 1984 the United Kingdom Government had concluded an agreement with China under which the Covenant would continue to be applied in Hong Kong after 1 July 1997. There was nothing to indicate that China would accede to the Covenant in the near future; it could even be said that at present China's interest in human rights was not very evident. The implementation of the provisions of the Covenant would thus fall within the scope of a bilateral agreement. If China did not implement the provisions of the Covenant, a bilateral agreement would be broken. It should be made clear what the United Kingdom Government envisaged doing if China did not fulfil its obligations under the Covenant, including the obligation to submit reports on the situation of economic, social and cultural rights in Hong Kong, and what the international community would be able to do in such circumstances.

31. There were two precedents which provided interesting pointers. The first concerned ILO: by a declaration dated 1 September 1989 the Chinese Government had entered into a commitment to ILO to continue to guarantee the participation of the Hong Kong Special Administrative Region in ILO activities and in particular to guarantee observance of ILO labour conventions. The second precedent related to the work of the Human Rights Committee: arguing that the International Covenant on Civil and Political Rights was intended to be applied in the interests of people and not for the benefit of States, the Committee had asked some of the States of the former Yugoslavia to submit reports on the enjoyment of rights in the territory of the former Yugoslavia, and those States were complying with the request. The Committee on Economic, Social and Cultural Rights might possibly put a similar request to China to submit reports on the implementation of the corresponding rights in the Territory of Hong Kong.

32. Mr. STEEL (United Kingdom) said that the United Kingdom had concluded a formal treaty with China under which China agreed to assume the international legal obligations guaranteeing that the provisions of the two Covenants would continue to be respected in Hong Kong. As far as the United Kingdom authorities were concerned, the submission of reports was one of the obligations connected with the implementation of the Covenants. Mr. Simma had cited two legal procedures by means of which China would be able in the future to submit reports on the human rights situation in the Special Administrative Region; there were certainly other procedures as well. The simplest thing would of course be for China to accede to the Covenant, either for the whole country or for Hong Kong alone.

33. While he could give the Committee an assurance that the United Kingdom Government had taken up with the Chinese Government the question of the implementation of the Covenants after 1 July 1997, he could not of course report on the views stated by the two parties during the negotiations, which were confidential. In the circumstances it was difficult to go any further, except by anticipating what China's future attitude would be. At the present stage there was no reason to doubt China's willingness to comply with the treaty which it had signed and which had been deposited with the United Nations. Solutions could always be found to technical problems of procedure.

34. Ms. AHODIKPE said that many residents of Hong Kong feared the advent of 1997; if China's commitment to comply with the provisions of the Covenant and other legal provisions was clear, there would be less reason for fear.

35. Mr. FUNG (United Kingdom) said that in connection with the continued observance of international obligations concerning Hong Kong it must be remembered that Hong Kong was not at present a sovereign State but part of the United Kingdom and that, as such, it was not a signatory of the Sino-British Joint Declaration. Replying to Mr. Grissa's question about the statement that the term self-rule was not appropriate in the case of Hong Kong, he drew attention to the consistent position of the Chinese Government to the effect that Hong Kong was historically and culturally part of China and that the situation should be regulated by negotiations and not by measures for the promotion of independence as in the case of other dependent Territories. That position had been endorsed in the preamble to the treaty between the United Kingdom and China. The future of the Territory of Hong Kong was governed by the Joint Declaration, one of the effects of which was to create the Hong Kong Special Administrative Region from 1 January 1997, and by the Basic Law enacted in 1990 which would enter into force as the constitution of Hong Kong on 1 July 1997. According to the rule "one country, two systems", the Special Administrative Region would enjoy a high degree of autonomy except in foreign affairs and defence.

36. Mr. Grissa had also asked how the Basic Law could guarantee an upward curve in democratic participation for the citizens of Hong Kong. That statement, made in the written replies of the United Kingdom Government, was not a pious wish but stemmed from the provisions of the Basic Law itself, in particular article 68. For example, it was envisaged that the members of the Legislative Council would gradually be elected by universal suffrage.

37. With regard to the other point raised by Mr. Grissa - that an ordinance had been enacted which incorporated the provisions of the International Covenant on Civil and Political Rights but that the International Covenant on Economic, Social and Cultural Rights had not been subject to the same procedure - he said that owing to the nature of the rights contained in the latter Covenant they could not be enacted expressly in domestic legislation; moreover, some of the rights in question were being implemented by States gradually as their resources allowed. The second periodic report and the written replies gave details of the implementation of the rights set out in the Covenant.

38. Mr. GRISSA noted that it was planned that the Basic Law would have the force of a constitution from 1 July 1997 and said that he would like to know how there could be any certainty that China would in fact regard the Basic Law as a constitution.

39. Mr. FUNG (United Kingdom) said that the Basic Law had been adopted in April 1990 by the National People's Congress of China. As had been pointed out, from 1 July 1997 the Basic Law would function as a constitution for the Special Administrative Region. The text of the Basic Law was the result of very long consultations and negotiations; it had in fact gone through three different drafts before being finally adopted by the Chinese Parliament. There was no reason to suppose that the Chinese Government would abrogate it.

40. Mr. SIMMA asked whether the Basic Law provided any possibilities of recourse after 1997 in the event of violation of the rights contained in the Covenant and whether the residents of Hong Kong could assert the provisions of the Covenant before the courts. Bearing in mind the fact that the provisions of the International Covenant on Economic, Social and Cultural Rights had not been incorporated in domestic law, he wished to point out that in common law countries judges could invoke the application of an international treaty even if it had not been incorporated in domestic law; for example, British judges had repeatedly invoked the provisions of the European Convention on Human Rights. He would like to know whether Hong Kong judges could invoke the provisions of the Covenant and whether they had been made aware of the importance of economic, social and cultural rights.

41. Mr. FUNG (United Kingdom) said that article 39 of the Basic Law stated that the provisions of the two Covenants would continue to be applied in the Territory of Hong Kong. It went on to state that common law would remain in force after 1 July 1997. Under common law of course judges had the power to interpret the law. After 1 July 1997 the judges, trained in the principles of common law and equity and the other rules of Anglo-Saxon law, would continue to apply their case law. Article 18 of the Basic Law provided that the laws governing the Special Administrative Region would be the Basic Law, the laws formerly in force and the laws enacted by the Region's legislature. The principle of stare dicisis, i.e. respect for earlier decisions and for precedents, would continue to apply.

42. Replying to the question on the training of judges in human rights, he said that the provisions of the International Covenant on Civil and Political Rights had been incorporated almost verbatim in the Declaration of Rights and that the judges had thus been able to familiarize themselves with those rights in the performance of their duties. Seminars had also been held by the judiciary for the benefit of judges, with the participation of lawyers specializing in human rights from Canada, Australia, New Zealand and the United Kingdom. Some of the provisions of the International Covenant on Economic, Social and Cultural Rights had been incorporated in legislation and, since such legislation was interpreted in legal proceedings, the judges had been able to familiarize themselves with it.

43. Mr. SIMMA said that he understood that the Basic Law did not provide any right of appeal and he would like to have that point confirmed. He also wondered whether in the People's Republic of China the Constitution took precedence over other legislation, in other words whether the Basic Law would take precedence over any legislation enacted by the authorities after Hong Kong became a special administrative region of the People's Republic of China.

44. Mr. GRISSA asked whether the Committee's fears about observance of the rights contained in the Covenant after 1 July 1997 were justified, since the Basic Law, which guaranteed such observance, was going to be applied.

45. Mr. FUNG (United Kingdom) acknowledged that the Basic Law did not provide for any specific means of appeal. However, under common law, which would continue to be applied in Hong Kong after 1997, any violation of the Basic Law could be brought before the courts on the same footing as violations of any other law. Furthermore, article 35 of the Basic Law provided that the residents

of Hong Kong could bring legal proceedings in respect of acts committed by the public authorities.

46. With regard to the primacy of constitutions over other legislation, the United Kingdom Government regarded the Basic Law as a basic constitutional instrument which took precedence over all other legislation. He again drew attention to article 8 of the Basic Law, which stated that the laws in force in Hong Kong would remain in force unless they conflicted with the Basic Law. Moreover, article 11 of the Basic Law provided that, pursuant to article 31 of the Constitution of the People's Republic of China, the economic and social system, the system guaranteeing fundamental rights and the freedom of citizens, and the executive, judicial and legislative systems would be based on the provisions of the Basic Law and that no law which conflicted with those provisions could be enacted in Hong Kong. However, it was true that, while it was very important, legislation could not of itself dispel all the apprehensions about the future of Hong Kong and the situation of human rights in the Territory after 1997.

47. Ms. BONOAN-DANDAN said that she welcomed the adoption of the bill prohibiting discrimination on the ground of sex, but noted that, according to information received, the bill had relegated to a position of secondary importance two other bills, one on equality of opportunity, which prohibited any discrimination in work, housing, education and the provision of goods and services, and the other on human rights and equality of opportunity, which provided effective recourse in the event of discrimination or violation of human rights. She would like to know the Government's position with respect to those two bills.

48. On the question of foreign workers, she noted that in Hong Kong most domestic workers of foreign origin were women from the Philippines. Unlike nationals of other countries such as the United Kingdom, the United States, Australia, Canada and Japan, such employees were not allowed to have their families join them. Moreover, according to a joint declaration by 22 organizations based in Hong Kong, domestic workers and other foreign workers were allowed only two weeks to leave Hong Kong when their work contracts expired. Such a rule could allow employers to infringe the rights of their employees without running any risk, since the employees did not have sufficient time to take legal action. Lastly, the residency conditions for foreign domestic workers were discriminatory, for such workers were required to perform the same work throughout their stay in Hong Kong and had no opportunity of improving their situation.

49. She would also like to have information about the situation of Vietnamese asylum-seekers, who had apparently suffered many violations of their rights, and about the accusations made against the Office of the United Nations High Commissioner for Refugees (UNHCR), which was said to have deliberately denied such persons their economic, social and cultural rights.

50. Mr. FUNG (United Kingdom) said that he wished to make it clear first of all that the bill prohibiting discrimination on the ground of sex was currently under consideration by the Legislative Council, as was the bill on equality of opportunity, which was certainly not considered of secondary importance. The Government hoped that both bills would be adopted. The bill on human rights and equality of opportunity, in contrast, had not in fact been submitted to the

Legislative Council, partly because it dealt with issues already covered by the two other bills and partly because the Government thought that it would have excessive financial implications.

51. There were currently 130,000 foreign domestic workers in Hong Kong, of whom 90% were from the Philippines; the others came from other Asian countries such as Indonesia, Thailand and Sri Lanka. Such persons were authorized to work for a specific employer for a period of two years. At the end of that period they had to return home. They could subsequently return to Hong Kong with a new contract, either with the same employer or with a different one. If their contract ended prematurely, they had two weeks to make arrangements for their departure. The two-week rule had been applied without problems for a number of years. According to the law, employers were required to pay the costs of employees' return journeys to their countries of origin. If an employee thought that he had suffered harm, he could bring the matter before the competent jurisdiction to obtain compensation and, in such cases, he could extend his stay until a decision had been handed down. The restrictions imposed on foreign domestic workers, who were not entitled to have their families join them, applied equally to all other foreign workers. They were due to the problem of overpopulation in Hong Kong. He stressed that most of the foreign domestic workers were willing to work in Hong Kong despite the restrictions, provided that they were housed by their employer.

52. Turning to the question of asylum-seekers, he said that in 1989 Hong Kong had introduced a programme, which the international community had approved, designed to solve the problem of refugees while taking into account the shortage of space in Hong Kong. Under the programmme the asylum-seekers were examined in order to distinguish genuine refugees from people wishing to emigrate for economic reasons. The refugees were directed to countries which were willing to receive them; the others had to return to Vietnam. The examination was conducted by the Immigration Office, whose personnel had received special training to enable them to identify genuine refugees and to understand, as far as possible, their living conditions in Vietnam. Pending examination by the Immigration Office, asylum-seekers were taken in hand by the State and accommodated in camps. Their needs were attended to by the Government, UNHCR and NGOs designated by UNHCR. Asylum-seekers were informed about the action to be taken and about the two options open to them. They could return to Vietnam whenever they wished, either before or after examination by the Immigration Office. The Hong Kong Government had obtained a guarantee from the Vietnamese authorities that any Vietnamese who returned home would not be subject to persecution. To date, almost 43,000 Vietnamese had returned home entirely of their own volition, and no case of persecution had been reported. Since 1979 the Hong Kong Government had granted asylum to almost 200,000 Vietnamese immigrants and had spent 6.6 million Hong Kong dollars on them. Furthermore, UNHCR owed the Government 150 million Hong Kong dollars for caring for asylum-seekers. As to the accusations made against UNHCR, he requested the Chairman to transmit them to the appropriate quarter, for he was not himself competent to reply.

53. The CHAIRMAN pointed out that the specialized agencies had always been invited to participate in the Committee's discussions and that the representative of UNHCR would reply at a later stage to any questions which members of the Committee might wish to put.

54. Mr. SIMMA, reverting to the question of Hong Kong's legislation on discrimination, said that he understood that the Government did not intend to adopt any general law dealing with all the forms of discrimination referred to in article 2, paragraph 2, of the Covenant, and he wondered whether the Hong Kong authorities believed that only discrimination on the ground of sex and discrimination against the disabled were important and that there was no need for legislation concerning the other grounds of discrimination. He also noted that the Government had refused to allow a bill on human rights and discrimination in general, which dealt with the establishment of a human rights commission, to be submitted to the Legislative Council. The Government could thus prevent consideration of a bill by the legislature merely by reason of its budgetary implications. He asked for further information about the relations between the executive and the Legislative Council with regard to the enactment of laws and added that he would like to know why the Government refused to establish a human rights commission which would be able to consider all cases of discrimination as well as communications from individuals.

55. Mr. Alvarez-Vita took the Chair.

56. Ms. JIMENEZ BUTRAGUEÑO said that she was worried about the situation of separated families and would particularly welcome further information about a child recently expelled to China without his family, whose fate had been revealed by an NGO. She asked whether the case was an isolated one.

57. The CHAIRMAN said that he would like the Hong Kong delegation to give more specific information about the difficulties encountered in the implementation of the Covenant.

58. He was very worried about the situation of foreign domestic workers. It did seem that the contracts offered to such workers were not subject to any regulation, in contravention of the Covenant. He asked whether a minimum wage had been set for the work performed by such persons and why Filipino workers did not have the right to bring their families to Hong Kong: such a prohibition conflicted with the provisions of the Covenant concerning protection of the family. Furthermore, since the majority of foreign domestic workers were women from the Philippines, it might well be thought that the situation constituted a massive violation of women's rights.

59. Mr. CEAUSU said that he too was very worried about the situation of foreign domestic workers. He understood that they were induced to accept employment subject to certain restrictions set out in their contract. That seemed to mean that they had to waive enjoyment of certain economic, social and cultural rights in order to obtain employment and that, for example, they had to agree not to start a family, marry with a Hong Kong resident, or exercise the right to education. If that account was correct, it might well amount to a flagrant violation of the Covenant. He therefore pressed for further information about the status of foreign domestic workers.

60. Ms. BONOAN-DANDAN said that most of the Filipino women working in Hong Kong as domestic workers had academic qualifications but they were offered wages three times higher than what they would receive in the Philippines for working at their own profession. Many of them were married and had children but were compelled under the existing conditions to live far away from home for a minimum of two years. It was true that the Philippines had accepted such conditions,

but that provided no justification whatsoever for what was obvious discrimination against Filipino workers in Hong Kong.

61. Furthermore, in the event of disputes over wages between foreign workers and Hong Kong employers, while it was true that foreign workers could remain in the Territory of Hong Kong to try to obtain compensation, it was equally true that they did not have the right to seek other work; it was therefore very difficult for them to remain in Hong Kong when they lacked the resources to prosecute their case.

62. Mr. Alston resumed the Chair.

63. Mr. FUNG (United Kingdom) said that for the Hong Kong authorities the most urgent task in the fight against discrimination was to solve the problems of discrimination on the ground of sex and discrimination against the disabled. That did not mean that the other criteria mentioned in article 2, paragraph 2, of the Covenant were less important in the eyes of the authorities but simply that they gave rise to fewer problems. Moreover, the authorities had carefully considered the question of establishing a human rights commission in Hong Kong and had concluded that such a move was not the most effective way of protecting human rights, especially as there would be no guarantee that an institution created now would survive the transition. The establishment of such a commission would not facilitate the task of the existing human rights institutions.

64. Replying to the question put by Ms. Jimenez Butragueño, he said that Hong Kong did not pursue an immigration policy deliberately designed to separate families. A large proportion of the many immigrants whom Hong Kong received each year came from the People's Republic of China, and more than 90% of them were joining their families. While it was true that there remained very many separated families, that was essentially because the various family members did not receive permission to emigrate from the Chinese authorities at the same time. As soon as he returned to Hong Kong he would transmit to the Committee detailed information about the situation of the Chinese child expelled without his family.

65. Foreign domestic workers were employed under standard contracts which allowed no discrimination. They enjoyed the same rights and the same protection as local workers, and a minimum wage had been set for their type of work. If a domestic worker thought that his rights had been infringed, he could have recourse initially to the conciliation services offered by the Department of Labour and then to a labour tribunal if the conciliation was unsuccessful. All foreign workers were informed about their rights by means of pamphlets, information meetings and a telephone number which they could call 24 hours a day. When foreign domestic workers took legal action because they believed that their rights had been infringed, the Hong Kong authorities provided them with accommodation in a transit centre reserved especially for them. Foreign workers were able to participate in all the cultural and educational activities available in Hong Kong.

66. On the point raised by Mr. Ceausu, he said that there was no question of foreign domestic workers waiving their rights. The rights and obligations of employers and workers were governed by the work contract, which must be consistent with the labour legislation. Lastly, there was no restriction

preventing foreign domestic workers from marrying the person of their choice, whether that person resided in Hong Kong or not.

The meeting rose at 6 p.m.